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The Right of Troncalidad in Castilian Inheritance Law in the High Middle Ages

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Abstract In order to solve the problem that arose when organizing the succession of those who died without issue and without having indicated to whom his/her assets should be left through a testamentary provision, historically different solutions were adopted, which can be separated into two broad models. One, followed, for example, in Roman Justinian law, seeking to preserve its unity, opted for giving the inheritance of the deceased to the closest relative, in the order of kinship or of affectivity. The other, preferred to guarantee that each of the assets was returned to the respective hereditary bloodline from which it came, paternal or maternal, even at the cost of breaking the homogeneity of the gross estate left by the deceased. In a society such as the Castilian one in the High Middle Ages, in which the family group had an extraordinarily important function in the social order and in which its strength, cohesion and continuity depended, to a large extent, on the wealth of its real estate and the conservation of this through the generations, within the kinship circle, the second model was better adapted to achieving this aim. This explains the existence of the so-called 'right of *troncalidad*', which can be defined as a succession principle applicable only in *ab intestato* succession of s/he who dies without legitimate issue, in which those assets owned by the deceased, having obtained them through inheritance, should be awarded exclusively to the relatives from the original bloodline. This paper will analyze the different documentary and regulatory manifestations that show the validity of this principle, its content and scope.

Simplifying greatly the range of possibilities, it is possible to reduce the options applicable to inheritance of those who died without offspring to two clearly differentiated models: one of which, followed, for example, in Justinian Law, and which attempted, above all, to maintain the unit of inheritance, giving preference to the

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closest relative to the deceased, not considering the proximity of the kinship, but rather the presumed ordering of the scale of his or her affectivities. The other alternative consisted of breaking the homogeneity of the aggregate of inheritable assets through a separation of their destinies that attempted to guarantee the reversal of them to their corresponding line of provenance.[1] This second model, that organized the inheritance along two diverging paths—the paternal and the maternal—is the one that was better adapted to a historical context, such as that in which we are moving, in which the force, cohesion and continuity of the family unit depended to a great extent on the accumulation and the conservation of the land estate and its intergenerational transmission within the strict margins of the circle of kinship.

That community and protectionist spirit had as its main vehicle of embodiment in the succession facet through an enormously successful institution in the European legal-historical development and that, genuinely representing the second model mentioned, in my opinion conditions, for its great importance, all of the articulation of intestate succession in the absence of descendants. This is the so-called *derecho de troncalidad* or 'right of recovering inheritance' which, understood in a broad sense, encompasses, by applying an analogous rule of restricting the circulation of a determined category of assets, to diverse legal figures, interrelated but distinct in nature, such as the *reserva hereditaria*,[2] the right of redemption (*retracto*) and the very *derecho de troncalidad*, in its strictest sense, which to avoid possible confusion will be the only one used here. With this term we refer to what Braga da Cruz defined as a principle of the law of succession applicable to the intestate succession of those who die without issue, as a conse-quence of which the assets possessed by the deceased as his or her own property should be attributed exclusively to the relatives of the line of their origin.[3]

Perhaps because we are dealing with an institution contrary to the idea of free movement of assets that dominates modern conceptions, the doctrine has not paid sufficient attention to it; which translates into a certain degree of disagreement and confusion when determining its profile. Nevertheless, it is possible to outline a series of characteristics that define this right with general validity. These are, above all, in their exclusive applicability to the *ab intestato* succession and in its exceptional character, since it affected only one concrete type of assets and acted only in favor of certain heirs. These features serve to call attention to the need to break down its content into two essential components: a real element and a personal one.

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[1]Poumarede, Jean. 1972. *Les successions dans le Sud-Ouest de la France au Moyen Âge*. Paris: Presses Universitaires de France, 219.

[2]Term used in Spanish laws governing inheritance to mean that portion of an estate that may not be alienated from the bloodline of the original testator; hence, portion or remainder of an estate of a person dying without issue, which passes first to his lineal ancestors and may not then be alienated from the direct degree of kinship where a better claim subsists. Alcaraz Varó, Enrique, and Hughes, Brian. 2008 (10th edition). *Diccionario de Términos Jurídicos. A dictionary of Legal Terms*. Madrid: Ariel, 996.

[3]Braga da Cruz, Guilherme. 1947. *O direito de troncalidade e o regime juridico do patrimonio familiar*. Braga: Livraria Cruz, 7.

The real element is based on the well-known distinction between assets *propios* (owned) and those 'acquired'. We should remember that, based on the premise that only real estate fits in the category of *propios*, the only one subject to the *troncal* reversal, Braga da Cruz established a typology of these, articulated in four broad categories. We also alluded to how, although without throwing out that classification, García Gallo denounced its inadequacy, for being too restrictive, given that this label of *propios* is assigned in the sources to other types of assets not of a hereditary nature. Not wanting to fall into a similar error, here only that type of assets that we could designate as 'hereditary' will be mentioned as affected by the *derecho de troncalidad.*

Regarding the personal component, it is evident that the *troncal* remittal lacked any effectiveness when there were descendants for the inheritance, since the maternal and paternal hereditary branches came together in them, the aforementioned separation between hereditary assets and those acquired, the basis of the institution, lost all of its importance. Its application was only comprehensible in those situations in which, upon the inexistence of children or grandchildren of the deceased, the succession was opened up to forebears or collaterals integrated in the same bloodline as that person from whom the property in question proceeded. Now then, the level of depth reached by this call to the relatives could be quite diverse. Utilizing the most general classifying criteria, two great systems should be differentiated: one, the so-called complete *troncalidad*, which, giving absolute preference to the principle of *troncalidad*, it excluded from the call those relatives that belong to the opposite bloodline from whence the inheritable assets proceeded, recurring to the degree of kinship only in the event that there was a plurality of relatives from the line affected. In contrast to this, the incomplete *troncalidad* converted the closest relative in the calculation of blood relationship into the universal recipient of the inheritance, regardless of the genealogical origin of the assets, resorting to the attribution of bloodlines only if various candidates for succession with an identical degree converged.[4] But this option, only in force in highly localized areas, was overshadowed by the greater implementation of the first, within which other modalities could fit.[5]

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[4]In this classification, Braga da Cruz. 1947 (as n. 3) returned to the categories of *vollständiges und unvollständiges Fallrecht*, used by Ficker, Julius. 1891. *Untersuchungen zur Erbenfolge der ostgermanischen Rechte*. Innsbruck: Wagner.

[5]The point of reference for this subdivision is supported by French succession customs. In the system of the unilateral bloodline, or simple *troncalidad*, *simple coté*, the extremely short projection of the genealogical inquiry stopped with the parents of the deceased, and from that point offered the respective relatives, according to their degree of kinship, the right to recover the reversed assets for each one of the paternal or maternal branches. More complex in its articulation and resolution is the system of bloodline, *coutume de cotè et de ligne*, or continual *troncalidad*, the most widespread, which bypassing the parents, prolongs that search retroactively to the first acquirer that introduced said assets into the family or, if he cannot be localized, to the first known possessor, granting to all of his relatives, by direct or collateral bloodline, a hereditary right over said assets. Finally, the system of pure *troncalidad*, *coutume soucherè*, circumscribes that right only to the direct descendants of the first acquirer of the assets.

In the characterization of this peculiar figure, belonging primarily to customary law, there are still important gaps to cover, beginning with the problem, which has still not been satisfactorily resolved, of its confusing origins. It is extremely difficult to set it within the context of Roman Law, which upon absorbing in the dominion of the *pater familias* all assets possessed by those under his authority, converts any interest in preserving the memory of its provenance in superfluous. Nevertheless, we should take into consideration how in later periods a separation between the *bona paterna* and the *bona materna* began to take shape with greater clarity along with a tendency to revert to its hereditary bloodline. Neither is it sufficient to give testimony to the existence in the law of different Germanic peoples a type of *ius devolutionis* when the married couple had no issue, to deduce the creation in this concrete context of a principle of *troncalidad*, which also became consolidated in many other places where this legal system had a minimal influence. It does not even seem accurate to connect its genesis, as some have claimed, to the development of the feudal model.[6] The fact is that, perhaps taking elements from all or some of these possible antecedents, the institution enjoyed great success in all of the European area: France, Germany, England, Italy, Austria… Before such a great degree of diffusion and, on occasion, of longevity, it should not be surprising that it often took on a shape that it would not be possible to rein in within the narrow margins of the definition proposed by Braga da Cruz.[7]

Transferring the focus toward the empirical terrain, the first visible sign of this right in our sources lies in the great quantity of legal precepts in which the 'relatives' are designated immediately after the descendants in the order of call in intestacy. Sometimes this stipulation was set forth without any other complementary information about the identity of the assets or of the persons implicated. This can be found in, for example, the *Fuero de Medinacelli:* "Omne o mulier que sin filios moriere sua bona heredarant sus parientes", or the *Fuero romanceado de*

[6]Besta, Enrico. 1964. *Le successioni nella Storia del Diritto italiano*. Milano: Giuffré, 67–69. In spite of the time that has passed, given the small amount of progress made in this field, his approaches seem to continue to be valid.

[7]Without going further, each and every one of the premises on which it is based have been systematically refuted by Celaya Ibarra, Adrian. 1986. El sistema familiar y sucesorio de Vizcaya en el marco del Derecho Medieval. In *Vizcaya en la Edad Media*, 147–164. San Sebastián: Eusko Ikaskuntza, 154–157. Thus, it starts by pointing out that the scope of the principle is not limited to succession, but rather that both the *Fuero Viejo* and the *Fuero de la Merindad de Durango* extend it to sales, donations and barter transactions, always giving preference to the relatives of the bloodline. Later, he alludes to the existence of signs of the application of *troncalidad* in testate succession and, what is more innovative, projecting its validity, in chapter 112 of the *Fuero Viejo* of 1452, to the succession of the descendents with a right to the legitima portion, upon granting the assets acquired through purchase the arbitrary qualification of real estate, to avoid that, setting the children aside, these could be transmitted to strangers.

Palencia: "…sus fijos et sus parientes et qualsequier de sus herederos…".[8] The *Fuero de Molina de Aragon* was not very explicit either, upon designating the successive call to the children and to the relatives and deciding that, failing all of them, the estate of the deceased person would go to pay suffrage for the soul of the deceased.[9] More interesting is what was set out in the *Fuero de Escalona* (Toledo) in the year 1130 which established that in absence of relatives, the decedent could designate in writing that the totality of his possessions be destined to saving his soul, but warning that, if he died without issue, only a fifth could be used for that purpose while the rest would be left in the hands of his *gentes* (people), a diffuse concept that seems to allude to an ample circle of kinship.[10]

There are texts that demonstrate a greater richness of information, by introducing some nuance that allows us to discern which of the assets are affected. The most noteworthy example comes from the *Fuero de Guadalajara*, when it restricted to personal property the possibility of giving donations *pro anima;* but in the event that there were children or relatives, the donation which had real property as its object was automatically invalidated.[11] The same zeal to protect the inalienability of real property inspired the aforementioned limitation imposed, in diverse *fueros*, on the person that professed in religion, regarding the handing over of his patrimony to the institution that had hosted him. Thus, the *Fuero de Cuenca* limited this power to cede to a fifth part of the personal property, alleging protection for the rights of the children.[12] The *Fuero de Soria* broadened that margin of availability to half of the

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[8] *Fuero de Medinaceli*, 1180 (Muñoz y Romero, Tomás. 1847/1987. *Colección de Fueros Municipales y Cartas Pueblas de los reinos de Castilla, León, Corona de Aragón y Navarra*. Madrid: Imprenta J.Mª. Alonso. Repr. Valladolid: Lex Nova, 435–443). *Fuero romanceado de Palencia*, 1256-7-8 (Caamaño, Carmen. 1934. El fuero romanceado de Palencia. *Anuario de Historia del Derecho Español* 11: 503–521), [1]: "…quando sus fijos et sus parientes et qualsequier de sus herederos otros que no sean herederos partiran lo suyo…".

[9] *Fuero de Molina de Aragón* (Sancho Izquierdo, Manuel. 1916. *El Fuero de Molina de Aragón*. Madrid: Librería Victoriano Sáez), [XI, 9]: "Vezino de Molina que fijos non houiere hereden lo suyo sus parientes. Si non ouiere parientes, aquella colacion onde fueren reciban todo lo suyo et denlo por su alma".

[10] *Fuero de Escalona* (García Gallo, Alfonso. 1975. Los fueros de Toledo. *Anuario de Historia del Derecho Español* 45: 341–488), [17]: "Et hominem qui mortuus fuerit et parentes non habuerit et cartam fecerit pro anima sua, totum, sicut iusserit, sic totum pro sua anima vadat. Si autem mortuus fuerit absque parentes et absque carta quintam partem detur pro eius anima et alia parte dent ad suas gentes".

[11] *Fuero de Guadalajara*, 1219-5-26 (González, Julio. 1983. *Reinado y diplomas de Fernando III*, 3 vols. Córdoba: Monte de Piedad y Caja de Ahorros de Córdoba, n. 75, 87–94): "Omne qui mandare por su alma mande muebles; e si rayz mandare e fijos oviere o parientes nol preste".

[12] *Fuero de Cuenca* (Ureña y Smenjaud, Rafael. 1935. *Fuero de Cuenca. (Formas primitiva y sistemática: texto latino, texto castellano y adaptación del Fuero de Iznatoraf). Edición crítica, con introducción, notas y apéndice*. Madrid: Tipografía de Archivos), forma sistemática, [X, 3]: "De eo qui in ordinem intrauerit … portet secum quintum de mobili solummodo, et reisduum cum tota radice remaneat heredibus suis; iniustum enim et inequum uidetur, ut quis exheredet filio suos, dando monachis mobile uel radicem, quia forum est, ut nullus exheredet filios suos". This precept is reproduced, in its essence, in *Fuero latino de Teruel* (Caruana Gómez de Barreda, Jaime. 1974. *El fuero latino de Teruel*. Teruel: Instituto de Estudios Turolenses), [315]. *Fuero de Zorita de los Canes*

total value of personal property, although with a rather confusing regulation. First, it left to he who took holy vows freedom to act in the case of having no children or grandchildren who succeeded him, while in another later precept, apart from establishing a year as the limit for completing his *manda* (bequeathal), it was pointed out that it would be his children or grandchildren who inherited all of his property and, in the absence of these, all of his "parientes a qui perteneciere", which could suggest a *troncal* reversal if it were not for the fact that in an analogous precept in the *Fuero Real* the "parientes mas propinquos" (closest relatives) were designated as the heirs.[13]

An aspect whose regulation often offers the confirmation of this preferential right of the relatives in situations where there was no issue is that regarding *mañería*, which consisted of a type of feudal right by which the assets of the possessor of a land estate not of his ownership that died in such circumstances reverted back to the owner of that land property. This can be explained because normally what was ordered was its suppression or softening, therefore it was necessary to determine what the future of those properties would be which, with such an exemption, they would no longer be destined for the treasury of the manor.

The solutions arbitrated thereon are fairly diverse. The *Fuero de Lara* from the year 1135 stipulated, simply, that those assets would go to the relatives and that, in the event that there were none, the village council would be in charge of offering them for the soul of the deceased.[14] In order to organize the assignment, other texts started from the distinction between testacy and intestacy; as I understand it, at

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(Ureña y Smenjaud, Rafael. 1911. *El Fuero de Zorita de los Canes según el códice 247 de la Biblioteca Nacional (siglo XIII al XIV) y sus relaciones con el Fuero latino de Cuenca y el romanceado de Alcazar*. Madrid: Real Academia de la Historia), [187]. *Fuero de Iznatoraf*, [180]; *Fuero de Alcaraz* (Roudil, Jean. 1962. *Les fueros d'Alcaraz et d'Alarcon, édition synoptique avec les variantes du fuero d'Alcazar, introduction, notes et glosaire*. 2 vols. Paris: Librairie C. Klincksieck), [III, 77]. *Fuero de Alarcón*, [173]. *Fuero de Béjar* (Gutiérrez Cuadrado, Juan. 1975. *Fuero de Béjar*. Salamanca: Universidad de Salamanca), [228]. *Fuero de Plasencia* (Majada Neila, Jesús. 1986. *Fuero de Plasencia. Introducción, transcripción, vocabulario*. Salamanca: Librería Cervantes), [23].

[13] *Fuero de Soria* (Sánchez, Galo. 1919. *Fueros castellanos de Soria y Alcalá de Henares*. Madrid: Centro de Estudios Históricos), [322]: "Si alguno que ouiere fijos o nietos o dent ayuso en horden entrare pueda leuar consigo la meatad del mueble et non mas; et la otra meatad et toda la rrayz que la hereden sus herederos; ca tuerto serie en deseredar a ellos et dar lo ala orden. Pero si fijos o nietos o dent ayuso de mugier de bendiçion non ouiere, ni otros fijos que ayan derecho de heredar, pueda fazer de todo lo suyo lo que quisiere…"; [328]: "Todo omne o toda mugier que orden tomare, pueda fazer su manda et todas sus cosas fata un anno complido; et si ante del anno non la fiziere … non la pueda fazer. Et sus fijos o sus nietos hereden todo lo suyo; et si fijos o nietos o dend ayuso non ouiere, hereden lo sus parients aquí perteneciere". Similar in *Fuero Real* (*Fuero Real. Leyes de Alfonso X*. 1982. Ed. and critical analysis by Martínez Díez, Gonzalo in collabo-ration with Ruiz Asencio, José María, and Hernández Alonso, Cesar. Ávila: Fundación Sánchez Albornoz), [III, 6, 11].

[14] *Fuero de Lara*, 1135-5-3 (Martínez Díez, Gonzalo. 1982. *Fueros locales en el territorio de la provincia de Burgos*. Burgos: Caja de Ahorros Municipal, n. 13, 139–142), [16]: "Lara non habuit mannaria nec habeat, sed si habuerit parentes recipiant sua bona, et si non habuerit parentes, accipiant conceio sua bona, et dent illo pro sua anima".

least, when the *Fuero de Cornudilla* of 1187 offers the alternative that, after having paid the five *sueldos*[15] of the *mañeria*, the rest would go to the relatives, or to whomever the deceased had designated.[16] Even clearer, in the *Fuero de Santa María de Cortes*, apart from exempting the villagers de la *mañería*, it recognizes complete freedom on the part of those without issue or relatives to draw up a will. Here the local lord was the receiver when, all other things being equal, the suc-cession was intestate.[17] The *Fuero de Haro* of 1187 gives the same impression when, referring to intestate succession, it pointed out that if the relatives of the *mañero* did not live in the village "ad quos sua bona pertineant"—*troncal* reversal once again—two members of the clergy and two laymen would be named to distribute his property among the poor and the Church.[18] The identification of those relatives, who were beneficiaries of the inheritance of the *mañero*, is broadened in the *Fuero de Atapuerca* of 1138, because when a recipient was not appointed by the deceased, the designated one would be "qui magis propinquis fuerit de sua gen-eratione", against payment of the mandatory levy.[19] This solution was repeated in the *Fuero de Cillaperlata* of the year 1200, upon choosing the "parentes eius, qui propinquiores fuerint" as inheritors, although here there was no allusion to the last will of the deceased[20]; and likewise, in the waiver of the *mañería* granted in the year 1124 by the abbess Teresa to her vassals of San Pedro de Dueñas, it was stated that the custom of the land was that the *propinquos* of the deceased without issue receive the inheritance.[21] But, without a doubt, the most valuable example is the

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[15]Coin in currency at the time.

[16]*Fuero de Cornudilla*, 1187 (Martínez Díez 1982 [as n. 14] n. 38, 196–197), [3]: "De manneria. Ve solidos pro foro, et quod remanserit habeant sui parentes, vel illa cuius mannerus mandaverit".

[17]*Fuero de Santa María de Cortes*, 1180–1182 (Hinojosa, Eduardo. 1919. *Documentos para la historia de las instituciones de León y Castilla (s. X–XIII).* Madrid: Centro de Estudios Históricos, n. 50, 84–85), [2]: "Statuimus etiam, quod hominem eiusdem ville non habeant manneriam et qui non habuerit filium aut parentes mandet res suas quicumque voluerit. Et si forte intestatus deceserit, omnes res illius cedant in ius et potestatem domini si filium aut parentes non habuerint sicut iam dictum est".

[18]*Fuero de Haro*, 1187-5-15 (Martínez Díez, Gonzalo. 1979. Fueros de la Rioja. *Anuario de Historia del Derecho Español* 49: 327–454, n. 20, 434–437), [32]: "Mannero de Faro qui parentes in villa non habuerit ad quos sua bona pertineant, si intestatus deccesserit., duo clerici et duo laici de sua collatione ipsum et omni bona eius recipiant et ecclesie et pontibus et pauperibus vel ubi eius visum fuerit in elemosinas per bonam fidem et sine dolo distribuatur".

[19]*Fuero de Atapuerca*, 1138-10-18 (Martínez Díez 1982 [as n. 14] n. 16, 147–149), [8]: "Et det quinque solidos pro manneria omnis homo et manerus … et se ipse nulli dederit habeat ea qui magis propinquis fuerit de sua generatione et det quinque solidos pro manneria".

[20]*Fuero de Cillaperlata*, 1200-2-3 (Martínez Díez 1982 [as n. 14] n. 40, 200), [1]: "Ut non detis pro manneria nisi Ve solidos. Quando vero iliquis mannerus obierit, parentes eius, qui propinquiores fuerint, dent quinque solidos…".

[21]*Fuero de San Pedro de las Dueñas*, 1124 (Díez Canseco, Laureano. 1925. Fuero de San Pedro de las Dueñas. *Anuario de Historia del Derecho Español* 2: 462–470, n. 1): "…ut non detis manneria, neque quisquam sitausus ab ista die in deinceps, nec prior nec monacus, seu laicus …sed sicut est consuetudo totis terre propinqui hominis defuncti possideant hereditatem proximi sui si filium aut filiam non habuerint…".

exemption to the *mañería* granted in the year 1194 to the council of Tamayo, which, both underscored the material component upon allowing the decedent to freely dispose of his property and clarified the content of the personal component upon assigning as beneficiaries "suis parentibus qui propinquiores ei fuerint".[22]

Another type of more precise remark is made in the *Fuero de Fresnillo de las Dueñas* which, apart from eliminating the *mañería*, called successively the children (*liberos*), and the "propinquos sive gentes" up to the seventh generation, ordering that, in the absence of all of them, the neighbors of the deceased would take care of offering the vacant gross estate for his soul in the place where he was buried or wherever they felt best.[23] What can be deduced from those generic *propinquos*, named repeatedly as successors, is that they were relatives of the decedent of a bloodline a fair deal closer than seventh degree. Nevertheless, the vagueness continues to reign. The same precept was reproduced, almost literally, in the *Fuero de Estremera*, the *Fuero de Belinchón*, the *Fuero de Uclés* and the *Fuero de Zorita de los Canes*.[24] And the same threshold of the seventh generation was established in the *Fuero de Trigueros* in the year 1095 so that, once the inheritance rights had been extinguished, the inheritance went to the public coffers.[25] Finally, the *mañería* is also referred to in one of the provisions of the *Libro de los Fueros de Castilla*, which completely excluded the son of the abbot from the paternal inheritance, which, if no *manda* had been established organizing its distribution, should be transmitted, as with any other *mañero*, to his brothers or to his closest relatives ("mas propinquos parientes").[26] This is a reference that causes doubt about whether

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[22]Del Alamo, Juan. 1950. *Colección diplomática de San Salvador de Oña (822–1284)*. Madrid: CSIC-Escuela de Estudios Medievales, n. 306, 372–373, año 1194: "…non demus pro manneria nisi V solidos ut quando scilicet aliquis mannerus obierit det suum mobile cuicumque voluerit … Hereditas vero reamaneat suis parentibus qui propinquiores ei fuerint et sub domino Honie habitaverint…".

[23]*Fuero de Fresnillo de las Dueñas*, 1095-2-1 (Martínez Díez 1982 [as n. 14] n. 5, 126–127), [1]: "In primis non abeatis manneria, nisi ut hereditetis vos unos alios usque ad VII generatione, et qui ex vobis non habuerit liberos aut propinquos sive gentes ponant suos vicinos causam suam pro anima eius ubi corpus suum iacuerit vel ubi ei meliorem placuerit".

[24]*Fuero de Estremera*, 1179–1185 (Rivera Garretas, María Milagros. 1985. *La encomienda, el priorato y la villa de Uclés en la Edad Media (1174–1310)*. Madrid: CSIC, n. 11, 241–243), [1]. *Fuero de Belinchón*, 1171, [1]. *Fuero latino de Uclés*, 1179-3 (Fita Colomer, Fidel. 1889. El Fuero de Uclés. *Boletín de la Real Academia de Historia* 14: 302–355), [1]. *Fuero de Zorita de los Canes*, 1180-4-8, [1].

[25]*Fuero de Trigueros*, 1092-3-29 (González Díez, Emiliano. 1986. *El régimen foral vallisoletano*. Valladolid: Diputación provincial, n. 3, 85–86), [5]: "Et si vos transeatis aut vestra muliere aut vestros filios aut neptis ut nepotis et qui de vestra generationi fuerint abent illa hereditate a septima generatione"; [6]: "Et si de septima generatione non abuerint de vuestras gentes quomodo vadant illas ereditates ad palacio".

[26]*Libro de los Fueros de Castiella*. 1981. Ed. Sánchez, Galo. Barcelona: El Albir, [71]: "…que ningun fijo de abad non deue heredar en lo de su padre, sy non fuere por alimosna qual de algo el abad por su alma. Mas sy el muriere e non lo mandare ala ora de la muerte delo suyo o de ante, deuen lo heredar sus hermanos o los omnes mas propinquos parientes, commo heredan de otro mannero".

this inclusion of the brothers among those called was exceptional here, as I believe, or if it should be understood implicitly in all of these generic allusions to the *parientes*, which would ruin that supposed relationship between the call to inherit and the principle of *troncalidad* which we have been arguing. Nevertheless, as we will see, there is sufficient proof to support this link.

It is clear that we should not search for this proof in the documentary sources, since the only vague sign found consists of this condition imposed in the year 1229 by the abbot of San Salvador de Oña on the group of grantees of an estate ceded for forty years for its cultivation: "Et si forte aliquis ex vobis decesserit absque prole, proinqui eius in dicta vinea illius hereditent sortem nostram…".[27]

It is in the *Fuero de San Sebastián* where the oldest trace of this principle of succession, *troncal* reversal having been in force, can be found. It comes from a rule, starting with the assumption of a man who died intestate leaving underage children in the custody of the widow, that ordered that if any of these should die before becoming of age, and not having, obviously, their own issue, the assets that they received from the paternal inheritance "…debet tornare unde veniet parentibus suis…"; it is conceivable that in this remittal those properties that the mother obtained in that same operation, both if she had married again or continued to be a widow, would also be implicated.[28]

Aside from this precedent, the great municipal *fueros* of Estremadura are the ones that provide the most noteworthy signs of the development and vigor achieved by this *derecho de troncalidad.* Among these, we should highlight the widespread acceptance received by the *Fuero de Cuenca*, where, with greater or lesser sharpness, it appears formulated under diverse aspects. Thus, regarding the succession of the *mañero*, he was granted the power to determine to whom his real and movable assets were left, exempting him from the *mañería* required of those who died intestate, from whose assets a fifth of the cattle would be taken, except his riding horse, to bring into hotchpot, leaving the rest in the hands of the closest relatives, or if there were none, in the power of his lord or his guest.[29] But, it was upon

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[27]Del Alamo, Juan. 1950. *Colección diplomática de San Salvador de Oña (822–1284)*. Madrid: Consejo Superior de Investigaciones Científicas, Escuela de Estudios Medievales, n. 453, 557–559, año 1229.

[28]*Fuero de San Sebastián*, circa 1180 (Martín Duque, Ángel. 1982. El fuero de San Sebastián, traducción manuscrita y edición crítica. In *El fuero de San Sebastián y su época*, 3–25. San Sebastián: Eusko Ikaskuntza), [III, 6, 3]: "Et si fillii interim obientur illam hereditatem et honorem et avere debet tornare unde venit parentibus suis". This precept should be related with [III, 6, 1]: "Si quis moritur et non fecerit testamentum ad obitum mortis, et remansserint filii parvi, et mater ducit alium maritum, parentes filiorum possunt partire et cognoscere partem filiorum patris, et dare firmas et accipere".

[29]*Fuero de Cuenca*, forma sistemática, [IX, 8]: "Quod nullus palatio pectet maneriam. Quicunque ante matrimonium, uel post, sine lingua decesserit, nullam palatio pectet maneriam. Inmo siquis uestrum propinquos non habuerit, diuidat omnen substanciam suam secundum cor suum, tam mobile, quam radicem, si testatus decessserit"; [IX, 9]: "De eo que sine lingua decesserit. Si aliquis intestatus decesserit, et propinquos habuerit detur quintum sue collationi de ganato, et non de aliis … excepto equo sellario. Ceterum habeant propinqui, et ipsi de corpore mortui faciant quod uoluerint";

regulating succession between children and parents when its relevance became even clearer, when it was underscored that the father or mother could only inherit the movable assets from a predeceased child since the real property had to return to its original bloodline, "radix redeat radicem" at the time of death of the surviving spouse, who would meanwhile maintain its usufruct.[30] The concrete identity of the blood relatives entitled to succeed is revealed in the following precept, indicating that they were the "parentes qui propinquiores et vicini fuerint", conditioning that neighborhood to a continual residence for ten years in the locality.[31] This call to the relatives was repeated later in another provision regarding the division of the inheritance between the widower and his children, in which, in an initial paragraph, apparently unrelated with the rest and somewhat contradictory to the previous precept because it included both the moveable and real property, designated the closest family members as heirs of those who died without issue, most likely wishing to refer with this to the exclusion of the survivor in inheritance of the deceased spouse and not to the succession of the predeceased child. Yet another chapter was devoted to the sterile couple who made a joint purchase or barter transaction, or who carried out improvements or built on the estate of one of them, ordering an equal division, both in life as well as at the death of one of them, whose

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[IX, 10]: "De eo que sine lingua et absque propinquis decesserit. Qui absque propinquis, et intestatus decesserit, detur quintum sui ganati collationi sui hospitis uel domini. Residuum sit domini seu hospitis". Similar rules in *Fuero de Zorita de los Canes*, [179] and [180], that do not speak of relatives but of heirs, *Fuero latino de Teruel*, [309], [310] and [311], *Fuero de Iznatoraf*, [174], *Fuero de Béjar*, [218], [219]. See, Tomás y Valiente, Francisco. 1966. La sucesión de quien muere sin parientes y sin disponer de sus bienes. *Anuario de Historia del Derecho Español* 36: 189–254, 213–215.

[30]*Fuero de Cuenca* (forma sistemática), [XI, 1]: "De successione filiorum atque parentum. Quilibet filius hereditet bona patris et matris tam in mobili quam in radice. Pater et mater bona filii mobili. Pater enim non habet hereditare radicem filli, que eum de patrimonio suo contingerit. Aliam radicem quam parentes simul adquisierint, habet parens superstes hereditate omnibus diebus uite sue iure filli, si filius per nouem dies uixerit. Post mortem parentis radix redeat ad radicem. Quapropter mando, quod licet parens superstes habeat hereditare hanc radicem omnibus diebus uite sue, tamen quia radix habet ad radicem redire, det fideiussores quod radicem custodiat indempnem. Radix qui filium de patrimonio contigerit, redeat ad radicem ea die qua ipse deces-serit". A similar reflection of this principle in *Fuero latino de Teruel*, [6]: "Quod pater hereditet bona fili et filus bona patris, nisi filius vel filia factus fuerit in adulterio…". *Fuero de Zorita de los Canes*, [185]: "De succession de los fijos et de los padres. Et todo fijo herede buena de su padre o de su madre, tan bien en mueble como en rayz, et el padre o la madre los bienes del fijo en mueble, si por IX dias uisquiere…". *Fuero de Alcaraz*, [III, 75]. *Fuero de Alarcón*, [170], [171]. *Fuero de Iznatoraf*, [178]. *Fuero de Uclés*, [72]: "Quomodo herede padre a filio. Et es en foro de Ucles quomodo hereditet filio a patre et matre a filio quando unus de illis transierit, et torne raiz a raiz". *Fuero de Molina de Aragón*, [XI, 1]: "En Molina herede fijo a padre et padre a fijo et torne rayz a rayz"; [XI, 2]: "Ermanos que non ovieren partido he alguno dellos muriere, hereden sus hermanos e si el partido hovieren, herede lo suyo su padre o su madre".

[31]*Fuero de Cuenca* (forma sistemática), [X, 2]: "…Parentes qui propinquiores et uicini fuerint, hereditent bona consanguinei sui defuncti. Si aliquis consanguineus propinquiorum istis uenerit aliunde, hereditet bona defuncti, sed tamen prius det fideiussores ualituros, quod ad minus sit populator conche per decem annos; quod si non fecerit, non hereditet". *Fuero de Zorita de los Canes*, [186]. *Fuero latino de Teruel*, [314]; *Fuero de Iznatoraf*, [179].

half would go to his/her closest relatives, while the other part went to the widower and the rest of the real property returned to the bloodline of origin.[32]

The signs left in other regulations on the application of this *troncal* remittal are much less certain. In the *Fuero de Fuentes de Alcarria* this can be perceived slightly when it was said that when the clergy died, his children should inherit, or, if there were none, the relatives closest to the bloodline from which the assets had originated.[33] Signs of it being in force also emerge from the *Fuero de Alcalá de Henares*, on subordinating the decision of the married couple without issue, to adhere to a unified property scheme, to the requirement that their agreement should be formalized before the council and in the presence and with the agreement of four relatives on each side, from among those who had inheritance rights over those assets that they wished to join in a single estate.[34] Much more explicit was the *Fuero extenso de Sepúlveda*, which granted a preferential succession status to the children, including illegitimate ones, as long as they had been publically recognized as such, and that their participation had been agreed to by the relatives of the deceased parent, to whom, in absence, it would have corresponded to succeed the decedent, as explained in the following: "…and the real estate returns to the bloodline from whence it came and those that inherit do so as they should…". That inheritance expectancy that they had was confirmed when the mother who wanted to marry her daughter must ask for authorization from the relatives of her deceased spouse who should inherit from her ("que la avrien de heredar"), and vice versa, with the relatives on both sides being responsible for arranging the marriage of the orphaned daughter.[35]

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[32]*Fuero de Cuenca* (forma sistemática), [X, 13]: "Item de particione. Quicumque sine prole decesserit, propinquiores consanguinei hereditent bona illius tam in mobili, quam in radice. Filius non diuidat radicem parentis uiui, quam lucratus fuerit ante nupcias, uel de suo patrimonio habuerit. Similiter neque heredes, siue fili dent portionem parenti uiuo in radice defuncti, qua habuerit ante nupcias, uel de suo patrimonio"; [X, 21]: "…Si uir et uxor steriles fuerint, et insimul cambium aut conparacionem fecerint in radice alterius, siue domos, aut molendinos, aut alium laborem, aut plantacionem fecerint, pariter diuidant illud cum fuerit necesse, tam in uita quam in morte. Cum alter eorum decesserit, uiuus habeat medietatem predicti laboris, et propinquiores consanguinei defuncti aliam medietatem; alia radix redeat ad radicem". *Fuero de Zorita de los Canes*, [197], [205]. *Fuero latino de Teruel*, [324], [330]. *Fuero de Iznatoraf*, [190], [198].

[33]*Fuero de Fuentes de Alcarria* (Vázquez de Parga, Luis. 1947. Fuero de Fuentes de Alcarria. *Anuario de Historia del Derecho Español* 18: 348–398), [183]: "Por fijos de clerigos que heredan. Todo clerigo que fuere de Fuentes o de su termino quando finare, fijos si los oviere hereden lo suyo et si fijos non oviere heredando los parientes mas cercanos de aquel parte viniere la raiz".

[34]*Fuero de Alcalá de Henares*, (Sánchez 1919 [as n. 13]), [84]: "Todo omne qui meter quisiere a su mulier en medietad, o mujer a so marido, si filios non ovieren, vengan IIIIº parientes de la una parte e IIIIº parientes de la otra, de los que ovieren a heredar que foren en termino, et otorguen la carta en conceio mayor con elos, et preste; et si esto non ficieren, non preste". See Martínez Gijón, José. 1957–1958. El régimen económico del matrimonio y el proceso de redacción de los textos de la familia del Fuero de Cuenca. *Anuario de Historia del Derecho Español* 29: 45–151, 91–95.

[35]*Fuero extenso de Sepúlveda*, 1300-4-29 (*Los fueros de Sepúlveda*. 1953. Ed. by Sáez, Emilio, historical-legal study by Gibert, Rafael, linguistic study by Alvar, Manuel. Segovia: Diputación Provincial de Segovia), [61]: "…omne que oviere a heredar, assí herede; el más çercano pariente

Regarding the law in the territory of Castile, the participation of the brothers in the inheritance of the abbot, provided for in the *Libro de los Fueros de Castilla*, which was also included in the *Fuero Viejo*, but referring here to the *hidalgo*[36] *mañero*, although the principle of *troncalidad* is much better safeguarded now. Therefore, the deceased had the complete power to dispose of his assets, as long as his will was not made known when he was already gravely ill or dying, since his capacity would be reduced to the offering for his soul of a fifth of his property; the rest, the movable assets and the gains would go together to his brothers and sisters or half-brothers and sisters, the nephew being permitted to represent the prede-ceased. However, these were left out of the inheritance of the patrimony ("erencia del patrimonio"), which should be inherited by the relative of the bloodline from which the inheritance came ("pariente onde la herencia viene"). Such preferential treatment was ratified in the following precept, upon determining that the *mañero* who had no issue would be inherited by the closest relatives ("parientes mas propinquos"), with the exception of the clergy, who were incapacitated to inherit, although they did maintain the same rights as the rest of their siblings for the maternal or paternal succession.[37] The limitation placed on he who was very ill or disturbed was repeated in the *Libro de los Fueros*, but with slight differences, since it was applied to both the *mañero* and those with issue, the amount disposed of was not set at a fifth but rather the sum of five *maravedís*, and he was not permitted to

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herede, et que sea en derecho, assí como la ley manda, et que non sea fecho en barragana, fuera ende si fuere fecho fijo por conçeio e plaziendo a los parientes que avríen de heredar el padre o a la madre, onde viene el heredamiento; et la raíz a la raíz se torne onde viene el heredamiento, essos lo hereden como lo deven heredar. Et los nietos hereden, con los otros hermanos del padre et de la madre, la suerte que deven aver el padre et la madre; et los sobrinos, fijos de hermanos, otrossí hereden con sus tíos, assí como heredarie su padre o su madre"; [55]: "De los casamientos. Toda muger virgen que a casar oviere, assí case: si padre non oviere, la madre non aya poder de casarla a menos de los parientes del padre que la avríen de heredar. Et si non oviere padre ni madre, los parientes de la una parte et de la otra, que la ovieren de heredar, la casen. Et qualquier que la casare amenos de como aquí es escripto peche ocho mrs. a los parientes et vaya por enemigo a amor de aquellos parientes que non fueron plazenteros del casamiento".

[36]Hidalgo: member of the lower Spanish nobility.

[37]*Fuero Viejo de Castilla* (González Alonso, Benjamín. 1996. *El Fuero Viejo de Castilla. Consideraciones sobre la historia del derecho de Castilla (c. 800–1356)*. Transcription by Barrios Garcia, Ángel, and del Ser Quijano, Gregorio. Salamanca: Junta de Castilla y León), [V, 2, 1]: "Esto es fuero de Castiella. Que todo ome fijodalgo, que sea mañero, seyendo sano, puede dar lo suo a quien quisier, o vender; mas de que fuer alechigado de enfermedad, acuitada de muerte …non puede dar mas del quinto de lo que ouier por sua alma, e todo lo al, que ouier devenlo heredar sus parientes … ansi como ermanos de padre, o de madre, e el mueble, e las ganancias devenlo eredar comunalmente los ermanos maguer que sean de sendos padres, o de sendas madres; e la erencia del patrimonio devela eredar el pariente onde la erencia viene; e si ouier sobrinos fijos de ermano, que quieran eredar la buena del Tío, puedenlo auer … que lo tenga el otro en su vida en fiado, e despues de sua vida, que lo partan estos sobrinos con los fijos dèl"; [V, 2, 2]: "…sil murier algund pariente mañero, que non aya fijos, los parientes mas propinquos del muerto deven heredar los suos bienes, mas el pariente de religion Monje, o Monja, non deve eredar ninguna cosa en la buena del pariente mañero; mas deve eredar en la buena del padre o de la madre egualmente con suos ermanos…".

make a donation for his soul, unless that suffrage was made by those who were to inherit from him ("los que an de heredar lo suyo"), without adding any other clarification about the specific identity of these.[38]

Although it contains a fairly detailed drafting of the order of the call to follow in transmitting the inheritance, the *Fuero de Soria* was not very receptive to the utilization of that *ius devolutionis*, since the succession line that was drawn initiated with the children and grandchildren, continuing with the unmarried brothers—or the married ones when dealing with immovable assets acquired by both or one of the spouses after marriage and owned jointly (*bienes gananciales*) and culminating with a reversion to the parents or the grandparents.[39] But neither is this enough to discard the presence of that right, which is, for example, evident in the case of the posthumous only child, begotten by the predeceased husband, whose closest relatives were responsible for carrying out an inventory of the inheritance in collaboration with the mother and in the presence of civil servants. After verifying that the newborn had indeed survived a minimum of nine days, once this period had ended, if the child—who had now become the heir—should die, his property would go to the mother. However, if on the contrary, he died before the end of the nine-day period, the relatives would receive the inheritance, as if he had inherited from the father that had not had issue ("…assi como lo avrien heredado del padre que fijo non oviese dexado…").[40] This same situation is regulated in the *Fuero de Cuenca*, where, nevertheless, that task of inventory was not required, and which, more faithful to the spirit of *troncalidad*, restricted the participation of the mother in the inheritance of the movable assets, requiring, in any case, that the real assets return to their origin from the very day that the child died.[41] The solution adopted by the

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[38] *Libro de los Fueros de Castilla*, [276]: "Esto es por fuero de Çereso: el omne manero o que aya fijos de que fuere alechugado enfermo e la cabeça atado, non puede dar nada por su alma, heredamiento que vala, saluo sy otorgan los que an de heredar lo suyo; e de mueble puede dar fasta quatro o çinco marauedís sin el annal. Et puede el marido dar ala muger o la muger al marido, el quinto del mueble et una heredat en sus dias".

[39] *Fuero de Soria*, [319]: "…Et si el muerto fijos o nietos non ouiere o hermanos casados et ouiere padre o madre, amos biuos, hereden todos sus bienes, mueble e rrayz, quier sea de ganançia, quier dotra parte; pero si alguno de sus hermanos fuere casado, la rrayz que fuere de compra o de ganançia hereden las sus hermanos. Et si padre o madre non ouiere biuos, el mueble todo hereden lo los auuelos o qual quier dellos que fuere biuo, o dent arriba en esta misma guysa…".

[40] *Fuero de Soria*, [323]: "Si omne que muriere dexare su mugier prennada et non ouiere otros fijos, los parientes mas çercanos del muerto en uno con su mugier escriuan todos los bienes del muerto ante los alcaldes. Et si despues naçiere fijo o fija et biuiere fata IX dias conplidos herede los bienes de su padre, pero si ante de los IX dias conplidos muriere, hereden lo todos los mas çercanos parientes del padre, mueble et rrayz, assi commo lo aurien heredado del padre que fijo non ouiesse dexado".

[41] *Fuero de Cuenca* (forma sistemática), [X, 31]: "Quod parentes non heredent bona filii qui per nouem dies non uixerit. Si filius usque ad nouem dies non uixerit, omnia tradat particioni heredibus defuncti. Si per nouem dies uixerit, mater habeat iure hereditario, mobile illius. Radix eadem die, qua puer migrauerit, redeat ad radicem". Similar in *Fuero de Zorita de los Canes*, [214], *Fuero de Alcaraz*, [III, 105], *Fuero de Alarcón*, [198], *Fuero de Béjar*, [263] y [264], *Fuero de Plasencia*, [6].

Fuero de Alcalá de Henares is also different, which likewise attributed the movable assets of the predeceased spouse received through the prematurely deceased child to the widower, adding a life-long usufruct of the real estate which reverted to the bloodline from where they originated at his death.[42] And lastly, in Soria, although here not only was it applied to the *mañero*, but rather in general to anyone dying intestate, the precept that ordered taking away a fifth of the heads of cattle to be brought into hotchpot and left to the rest of the relatives, that were responsible for choosing the burial place, or if these did not exist, to the manor lord or the guest.[43]

Finally, it is important to mention that no reference can be found to the *troncal* remittal in the *Fuero Real.* We should remember that regarding this, in this body of regulations, those who died without issue had complete freedom to designate to whom they left their assets, despite any possible claims from parents or other relatives. In the absence of such a testamentary provision it would be the parents, or whoever was living of these, who would inherit, and substituting them were the grandparents, and in turn the closest relatives, among which were included the siblings and the children of the siblings.[44]

After having concluded this review, it seems reasonable to admit that, with a varying degree of legal recognition, this legal solution applied to the succession of he who died without issue showed signs of noteworthy legal force and vitality, although it began to remit just when we approach the period of closing our study. This retreat can be blamed on the growing influence of external trends of a Roman law nature, but which was not consummated without finding serious resistance from a still vigorous municipal law, deeply rooted in custom and in a long struggle to

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[42]*Fuero de Alcalá de Henares*, [27]: "Todo home de Alcala o de so termino a quien muriere mulier o a la mulier so marido e fixo lesare el uno al otro e IX dias visquiere o den arriba e despues se muriere, el padre o la madre lo hereden toda su buena; el mueble por siempre e la raiz por en sos dias. Orfanos a quien muriere padre o madre e oviere partido con padre o con madre e muriere alguno de illos e non ovieren partido inter illos, los hermanos lo hereden; et si ovieren partido e muriere alguno de illos; el padre o la madre que fore vivo herede el mueble por siempre e la raiz por en sos dias; e despues de sos dias, torne raiz a raiz; e de fiador que no lo venda ni lo malmeta. E si en la raiz oviere casa e vinnas e orto e molino e no lo labrare … faganle testigos el que lo oviere a heredar, e entrelo sin calona…".

[43]*Fuero de Soria*, [295]: "Si alguno sin lengua muriere et parientes ouiere, den el quinto de su ganado, et non de otras cosas, a la collacion donde fuere … de todas bestias, fueras saccado cauallo seellar. Et lo otro todo que lo hereden sus parientes; et que ayan poder de leuar el cuerpo a enterrar do quisieren"; [296]: "Si alguno que parientes non ouiere fiziere manda de sus bienes, derecho es que se cumpla … Et si muriere sin lengua, sea dado el quinto de sus ganado a la collacion de su huespet, si el collacion non ouiere; et lo otro que fincare, ssea de su sennor o de su huespet".

[44]*Fuero Real*, [III, 6, 1]: "Todo omne que ouiere fiios o nietos (o dent ayuso) de mugier de bendicion, no puedan heredar con ellos otros fijos que aya de barragana, mas del quinto de su auer mueble e rayz, puédales dar lo que quisiere. E si fiios o nietos o dent ayuso non ouiere de mugier de bendicion nin otros fiios que ayan derecho de heredar, pueda fazer de todo lo suyo lo que quisiere … Et si omne qualquier muriere sin manda e herederos non ouiere assí como sobredicho es, el padre e la madre hereden toda su buena comunalmientre; e si non fuese biuo mas del uno, aquel lo herede. E si non ouiere padre o madre, hereden los auuelos o dent arriba en esta guissa misma. E sui ninguno destos non ouiere, herédenlo sos más propinquos parientes que ouiere, assí como son hermanos o sobrinos fiios de hermanos, o dent ayuso…".

assert themselves against the thriving tendency to unify regulations issued from official spheres.

Neither should it be thought that with this quick analysis we have exhausted the list of possible evidence put forward to demonstrate the strength of this right of *troncalidad.* There are many other more or less direct references that bear witness to the privileged hereditary position of the relatives. For example, different *fueros* attributed the inheritance of one who was executed for his crimes to the "propinquiores consanguinei".[45] Furthermore, in the *Fuero de Agüero* of 1124, foreigners were authorized to share in the distribution of the inheritance of the movable assets of the deceased relative that was a neighbor of the village.[46] In a nutshell, we could have included that multitude of situations in which either directly or through a simple and distinct supervising attitude, the relatives exercised permanent control over the traffic of family hereditary property, endeavoring to avoid its distribution outside the margins of the kinship circle. It could also be mentioned, as a reminder, the active role that was reserved many times to them when distributing the inheritance between the widower and the heirs of the predeceased spouse; or the restrictions imposed on the *mandas* between spouses, long constricted to movable assets; or the subsidiary attribution that they received of the arms, the horse or other objects set apart by the widower when the child or children to whom they were designated died; or the constant vigilance to which the widow was submitted to by the relatives of the deceased husband in defense of the hereditary rights of the descendents; or, lastly, the possibility that was offered to a few of the members of the bloodline affected to avoid the alienation of the family property through the exercise of the right to redemption. Aspects all of which converge toward the confirmation of the notable implementation of the aforementioned principle of *troncalidad*.[47]

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[45]*Fuero de Cuenca*, (forma sistemática), [XV, 11]: "Quod consanguinei capite puniti habeant bona … si ille qui pro comisso scelere capite plexus fuerit, propinquiores consanguinei hereditent bona ipsius tam in mobili quam in radice". Similar in *Fuero de Zorita de los Canes*, [867], *Fuero latino de Teruel*, [23], *Fuero de Alarcón*, [360], *Fuero de Iznatoraf*, [394], *Fuero de Plasencia*, [382]. *Fuero de Guadalajara*, 1219-5-26, [54]: "Ningund ome qui fuere justiçiado, sus parientes no pierdan el aver". *Fuero de Cáceres* (Muro Castillo, Matilde. 1998. *El Fuero de Cáceres. Edición crítica y facsimilar.* Cáceres: Ayuntamiento de Cáceres), [351]: "Ladron que furtare enforquenlo, et preste so auer a sos parientes". Precept repeated in *Fuero de Usagre* (Ureña y Smenjaud, Rafael, and Bonilla San Martin, Adolfo. 1907. *Fuero de Usagre (siglo XIII) anotado con las variantes del de Cáceres.* Madrid: Hijos de Reus), [360], and *Fuero de Coria* (Maldonado Fernández del Torco, José. 1949. *El Fuero de Coria.* Transcription and setting of the text by Sáez, Emilio, prologue by Fernández Hernando, José. Madrid: Instituto de Estudios de Administración Local), [347].

[46]*Fuero de Agüero*, 1224-4-30 (Rodríguez Fernández, Justiniano. 1981. *Palencia. Panorámica foral de la provincial*. Palencia: J. Rodriguez, n. 36, 275–278), [21]: "Baron e mugier qui fuera villa morar hi el pariente de la villa morir, partan e lleven su buena del mueble".

[47]It would have to be underscored that the validity of this principle is not a peculiarity only in Castile, since its presence has also been verified in other neighboring territories. For example, in the *Fuero General de Navarra*. 1964. Pamplona: Diputación Foral de Navarra, Institución Príncipe de Viana, versión asistemática, [III, 4, 16]: "Si algun hombre o alguna muger muere sen creaturas,

Finally, it should be noted that one of the fundamental premises on which the right of *troncalidad* is based is the principle of exclusion of inheritance by the direct ascendants, whether this is in any circumstance or only in relation to the collateral relatives included in the original bloodline of the affected assets, which in theory are only those received through inheritance, but which frequently also include movable assets and those acquired during the marriage. Nevertheless, a detailed study of this matter will not be undertaken here.

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